

MINUTES OF THE REGULAR MEETING OF THE
BOARD OF EMERY COUNTY COMMISSION
HELD IN THE EMERY COUNTY COURTHOUSE

JULY 7, 2015

Present at the meeting was Commission Chairman Ethan Migliori, Commissioner Paul Cowley, Commissioner Keith Brady, Attorney Michael Olsen, Deputy Clerk/Auditor Carol Cox, elected officials and citizens.

CONSENT AGENDA

(1)

APPROVAL OF CHECK EDIT LIST, REQUISITIONS, AND DISPOSITIONS.

The Warrant Check Edit List #236718 through and including #236861 was presented for payment.

Requisitions were presented for the following:

<u>REQUISITION</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
33-15	Callyo Bug System Sheriff/Drug Task Force	\$1,279.40
34-15	AC Inverter Communications/Insurance Repair	\$2,279.00

Dispositions were presented for #4739, Calculator, 6967, Refrigerator, 6924, letter folder, 0412 1989 Ford Truck, 8907, 2006 Dodge Durango, 5097, 1992 Cat 140GL Grader.

(2)

APPROVAL OF OUT-OF-STATE TRAVEL TO DENVER, CO FOR JORDAN LEONARD TO ATTEND BEAR TRAINING.

(3)

APPROVAL OF BUSINESS LICENSE FOR JAMIE MURDOCK d.b.a. LAKEVIEW DINER.

(4)

APPROVAL OF 3% WAGE INCREASE FOR JACLYNN NELSON AFTER SUCCESSFUL COMPLETION OF 6 MONTH ORIENTATION PERIOD.

(5)

APPROVAL TO PROMOTE ROBERT RILEY AS THE DISPATCH/CORRECTIONS SERGEANT. MOVE FROM GRADE 17 TO GRADE 21.

COMMISSION MEETING MINUTES
JULY 7, 2015

(6)

APPROVAL OF COMMISSION MEETING MINUTES.

Commissioner Paul Cowley made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Keith Brady . The motion passed.

DISCUSSION AGENDA

(1)

ITEMS PULLED FROM CONSENT AGENDA.

Nothing was pulled.

(2)

PRESENTATION OF EMPLOYEE OF THE MONTH.

Commissioner Ethan Migliori presented the Employee Of The Month Award to Teresa Manzanares. Teresa is an import from Washington State. She had been working for attorneys in Price when Scott Johansen lured her to come work at the Emery County Attorney's Office. That was in May 1987. She has since come a long way from typewriters and carbon paper to computers and internet programs. As Paralegal/Office Manager, Teresa is a huge asset to the County. She is a certified Utah Prosecutorial Assistant, has served on the UPAA board, serves on the Risk Management Committee for the County, is a TAC for the Bureau of Criminal Identification to look up criminal histories. She accesses many programs to manage all sorts of information including the state case management system (PIMS) to produce documents for criminal prosecution. Teresa has always attended and taken notes in district court criminal law and motion sessions so she can do judgements and orders and other legal documents. She does legal research online for criminal and civil case law and helps the County Attorney with civil matters. In Emery County, Teresa has worked under attorneys: Scott Johansen, Patricia Geary, Gene Strate, Mark Tanner, Allen Thorpe, David Blackwell, Mary Manley, Brent Langston, and Mike Olsen. Teresa has been a great help to them as well as the Emery County Commission, Personnel Department, Road Department, Sheriff's Office and more. Teresa was presented with a plaque and Emery County Business Chamber Bucks.

(3)

MARK H. WILLIAMS AND NEIGHBORS, DISCUSSION OF PAST TWO (2) YEARS
FLOODING SOUTH OF CASTLE DALE.

Mark H. Williams, Charles Bardsley, and Devin LeRoy came before the Board of

COMMISSION MEETING MINUTES
JULY 7, 2015

Commissioners to address a flooding situation on the south side of Castle Dale. Mr. Williams explained that the floods began 2 years ago. He stated that a month ago the flood got them good. He requested the county provide assistance by way of a dike or levy to alleviate the problem. Mr. Bardsley indicated that this is actually the third year of flooding. It has flooded twice this year so far. It starts at the bridge and runs down to his property. The velocity of the flooding has increased since the Tamarisk and Russian Olives have been cleared along the creek. He requested assistance with the situation. Mr. LeRoy explained that he was in the process of building his home. He had an additional building expense of \$3,000.00 to change the footings and add fill to raise the elevation.

Larry Lafrentz from Orangeville reported that the problem culminates farther upstream in Orangeville. He stated that he has lived in his current location along the Cottonwood Creek since 1987 and has done all that he can do to keep the water out of his yard. He indicated that the floods are coming from Cottonwood Creek. He asked that the County keep the creek within its boundaries and off peoples property.

The Board of Commissioners asked Merrill Johansen and Howard Tuttle from Johansen & Tuttle Engineering to provide a few thoughts on alternatives to correct the problem. Howard and Merrill detailed the problem areas on a map. Alternatives included realigning the river or cleaning it out which would require a permit from Army Corp of Engineers. Possibly constructing a dike or levy. Wayne Nielsen from the Road Department commented that if the County builds something and the water still floods over the County would be responsible.

Howard stated in his opinion the only alternative is to build a dike and slowly, over time, rip-rap the bank. This could cost an estimated \$100,000.00 for material and construction. There are several agencies that you could help with the funding such as, State, CIB, NRCS.

Mike Olsen asked Howard, with respect to the county road where the dip is located, is the dip, the way that it is constructed now, is it functioning correctly? Howard indicated that it is functioning properly. The flooding starts way before it gets to the dip. The flooding starts from the mill ditch where it comes in above highway 10. Nothing needs to be done to alter the road or the dip to correct this problem.

Mr. Bardsley commented that the county does not maintain the spillway. It builds a dam and backs up. All the debris collects at the spillway.

Mike Olsen asked Mr. Bardsley where the water backs up? Mr. Bardsley indicated that in his opinion it backs up at the spillway. It is not only structures that get damaged. He indicated he loses thousands of dollars in fencing and crops. Property is property. Why does it always have to be structure damage? He stated that most of the flooding occurs on his place. If you need permission from land owners to do something you will probably have to get permission from me.

COMMISSION MEETING MINUTES
JULY 7, 2015

Phil Fauver asked if the County Planning and Zoning was involved in permitting these people to build structures and do things in this flood plain? Commissioner Migliori stated that most of these are in City limits and permitted by Castle Dale City Planning and Zoning. Mr. Bardsley indicated that his property was not in the flood zone when he built his home.

Commissioner Migliori asked what would you have to do to the river in order to contain it inside the river? Howard stated you would have to widen the channel and dig it out. Commissioner Brady asked if there is a way to keep the channel the same so it doesn't meander and create the oxbows? Howard indicated you would realign some of the channel but you would never be able to fully control the river. Commissioner Cowley stated that once you get into the river channel the Army Corp of Engineers will have to be involved and take charge of the project. Merrill indicated that is doable. We've permitted to clean out rivers and protect banks before. Commissioner Cowley asked J&T if they think that the river has built up a lot of silt causing the problem? Howard indicated that when Joe's Valley wasn't there the high waters came down and kept the channel gutted out. Mike Olsen asked if they had an estimated cost to dig out the river? Howard indicated it would be the same or exceed the cost to build a dike. Mike asked if it was possible to alter the route of the river? Merrill indicated that there are a couple of places you could straighten it out but that would take a permit from the Army Corp of Engineers. Commissioner Brady indicated that in larger rivers such as up the Green River near Flaming Gorge they releases so much water once a year or so to help clean out the channel. Is that something that Joe's Valley Reservoir could do to keep the sediment washed out? Merrill indicated that he didn't think Cottonwood Irrigation Company would agree to releasing that quantity of water. Mr. Lafentz stated that in a regular snow year the run-off would do the job, but rain on top of that run-off pushes the river out of its banks.

Commissioner Migliori stated that we need to have more discussion on this issue. There have been some good ideas presented. There is logic in having a small committee explore this further. The committee should maybe include one of the Commissioners, a representative from J&T, a couple of impacted land owners, Captain Ekker because of his expertise from the Huntington Creek issue, Wayne Nielsen from the Road Department, and Brenda Tuttle because there will probably be money involved. The committee could pinpoint some areas that we want to tackle and make a priority list. This is going to require more resources than what we have. We will need to identify some of those resources, whether it be money and/or equipment. Then we can start working through the priority list. The Commissioners will get something together in the next couple of weeks. Land owners need to appoint a couple of representatives and get back with the Commission Office. We will start punching through the list as quick as the committee is formed and see what we can get done. Commissioner Migliori thanked those who came today and provided their perspective on this matter.

COMMISSION MEETING MINUTES
JULY 7, 2015

(4)

RALPH OKERLUND, SIX COUNTY COALITION, UPDATE ON COALITION ACTIVITIES AND DISCUSSION OF EMERY COUNTY PRIORITIES.

Senator Ralph Okerlund, Executive Director of Six County Coalition provided an update of activities. The group was formed six months ago to look for economic and development opportunities that will benefit one or more of the six counties (Carbon, Emery, Duchesne, Daggett, San Juan, and Uintah) involved. They are looking at opportunities such as a corridor for transmission of gas/oil from Uintah County. Each of these counties has gathered projects that could benefit their county. The group felt it would be more beneficial to plan and fund the projects if they took a regional approach. He indicated that they are close to ready (possibly the next two years) to make application with CIB on a project. Commissioner Migliori stated that he visited with Senator Okerlund and Senator Hinkins regarding obtaining access to natural gas for Lawrence and other areas in Emery County that still have to rely on propane.

(5)

APPOINTMENT OF KRISTI MAXWELL TO THE MUSEUM OF THE SAN RAFAEL BOARD OF DIRECTORS.

Commissioner Paul Cowley made a motion to appoint Kristi Maxwell to the Museum of the San Rafael Board of Directors. The motion was seconded by Commissioner Keith Brady. The motion passed.

(6)

RATIFY EMERY COUNTY LIBRARY APPLICATION FOR 2015 REGULAR LSTA SUB-GRANT FOR NEW COPY MACHINES.

Commissioner Paul Cowley made a motion to ratify approval of Emery County Library's application for 2015 LSTA Sub-Grant for new copy machines for the libraries. The motion was seconded by Commissioner Keith Brady. The motion passed.

(7)

APPROVAL/RATIFICATION OF PEST CONTROL SERVICE AGREEMENT WITH TARGET PEST CONTROL FOR CONTROLLING BATS ON THE EXTERIOR OF THE EMERY COUNTY COURTHOUSE.

Commissioner Keith Brady made a motion to approve of a Pest Control Service Agreement with Target Pest Control for controlling bats on the exterior of the Emery County Courthouse pending review of a contract from the Attorney's Office. The motion was seconded by Commissioner Paul Cowley. The motion passed.

COMMISSION MEETING MINUTES
JULY 7, 2015

(8)

CONSIDERATION AND APPROVAL OF ANNUAL DUES TO EASTERN UTAH
TELEVISION ASSOCIATION.

Bret Mills, Communications Supervisor discussed annual dues to Eastern Utah Television Association. Carbon, Emery, Duchesne, San Juan and Uintah are the counties that make up the Eastern Utah Television Association. With the equipment going on 10 years old the committee wanted to start adding more funds so they can start to replace one transmitter or receiver per year at a cost of \$25,000.00 for either one and still have a small amount left over for repairs of additional equipment that may fail. The committee has 54 of these units across eastern Utah and runs as a system in a daisy chain and they all rely on the microwaves upstream. Equipment will be reused to keep the rest of the system going for as long as they have good working parts to keep the television system going and dependable. When Commissioner Horrocks was the Emery County representative on the committee, he voted to increase the amount mainly because the equipment is getting older and the committee decided to increase the amount. Bret indicated that he is on the technical advisory part of the committee and does attend the meetings. The television system was installed in 2005 when the digital television was forced upon us by the federal government. The television committee received a grant for 5 million dollars to build the television system throughout all 6 counties. Grand County did not want to participate until later after they had already built the television microwave and the money was spent. The board decided not to let them join with no financial participation. The committee takes care of the microwave and head end equipment and the counties pay the cost of the tv translators. Bret indicated that he has not been a part of the budgeting for this committee's dues so he was unaware that the additional amount had not been added to the budget for the dues. With the update they will be able to add some new channels to the 27 free tv channels. They plan to update a microwave each year. The \$2,000.00 is already in the budget and Bret indicated that he may have additional funds in the television line item of his budget. Bret asked for approval to spend \$5,000.00 for the annual dues to Eastern Utah Television Association. Commissioner Keith Brady made a motion to approve \$5,000.00 for annual dues to the Eastern Utah Television Association pending review of the television budget and if the additional funds are not there then to find the difference somewhere in the county budget. The motion was seconded by Commissioner Paul Cowley. The motion passed.

(9)

CONSIDERATION AND APPROVAL OF CONTRACT WITH ROYCE ELECTRONICS,
INC. FOR TOWER SPACE RENTAL IN FERRON.

This is a Communication Site Lease amendment between Emery County and River Canyon Wireless. They propose to add Ferron site to the agreement with compensation terms for Emery County. The County would agree to add one location with the same terms as previously agreed at the 749 W. Mill Rd. tower in Ferron and allow River Canyon Wireless space for microwave

COMMISSION MEETING MINUTES
JULY 7, 2015

radio and WIFI antennas on the tower. River Canyon Wireless will pay an additional \$100.00 per month for a total of \$425.00 per month. RCW provides internet service for Emery County at the Castle Dale site for a back up internet patch as well as a link to the internet from the Emery County Landfill. Commissioner Keith Brady made a motion to approve the contract with Royce Electronics Inc. for tower space rental in Ferron. The motion was seconded by Commissioner Paul Cowley. The motion passed.

(10)

CONSIDERATION AND APPROVAL OF COOPERATIVE AGREEMENT BETWEEN
EMERY COUNTY AND NATURAL RESOURCES CONSERVATION SERVICE
NO. 68-8D43-15-13 FOR REHABILITATION OF MILLSITE DAM.

Bronson Smart, NRCS explained that in 1960's NRCS worked with the Ferron Canal Company to build the Millsite Dam. The dam is in need of an upgrades to meet State and Federal codes and requirements. They have come to the county to request help to administer the project along with the Ferron Canal Company. The plan is to rehabilitate the dam and keep it in service to provide another 70 years of sediment storage. At the end of 70 years they will have the original storage that was designed for the dam. This will benefit the irrigators, power plant, the community of Ferron and those who receive water from the dam as well as the flood control benefits that come with the dam will be intact for decades to come. They propose to raise the dam, improve the spillway, provide some stability during an earthquake, and take care of some foundation issues. The Dam has functioned very well over the years and the Ferron Canal Company has done an excellent job of maintaining it. This project will bring it up to current State and Federal codes and criteria.

Commissioner Brady asked what is the County's responsibility in this agreement?

Mr. Smart answered that because the Ferron Canal Company doesn't deal with millions of dollars in a year they asked that the County serve as the fiscal agent for the project. The Canal Company is securing a grant from the State for 3.5% of the project. Division of Water Resources will provide 31.5% of the project, NRCS will provide 65% of project cost. The grant is for \$18.3 million dollars in construction cost from NRCS. The Canal Company through the State will provide the remainder through a grant and in-kind. We ask that the county advertise for and award a construction contractor. Commissioner Cowley asked what is the County's financial responsibility in this project? Commissioner Migliori answered that the County will oversee the project using the resources that we have available. Commissioner Cowley thank for the clarification. He expressed concern that the county would get involved in this type of a project. Mr. Smart added that the State is designing the project along with the Canal Company and Ferron City. The federal government can not write an agreement with an organization that doesn't have HR policies so they usually ask for a local sponsor to help them out. This is similar to the project that the NRCS just finished in Huntington Canyon. The difference is all the match is covered by the NRCS, the State of Utah and the Ferron Canal Company. Traci Behling stated that they are

COMMISSION MEETING MINUTES
JULY 7, 2015

just asking the county to receive and disperse funds. Mr. Smart indicated that they are in a time crunch. Part of the language in the agreement is that you can back out of the project at any time. Construction will not begin until next July, so we have time to work the project out and amend the agreements. The NRCS needs a signature quickly to obligate these funds to the project before the end of their fiscal year which is July 31st. Is there a clear process to make amendments to the agreement? We need to make some amendments in order to keep the other departments inside the county comfortable in moving forward. We are taking on a lot of risk and we want to mitigate that risk. There are a few things that need some clarification. Traci Behling explained that the NRCS received notification of appropriation of funds from the legislature just recently so they have had to move very quickly to get this project moving forward. Commissioner Migliori expressed concern that all parties involved be aware and conscious of what is being done. If the 28 million dollars goes south we couldn't even come close to covering that. Commissioner Migliori talked about the administration fee included in the contract agreement. He felt that the \$100,000.00 will probably need to be adjusted. Attorney Mike Olsen asked Mr. Smart where in the contract he can find the paragraph that the county can back out at any time. Mr. Smart indicated that it refers to a statute which he will email the reference to him. Mike asked what is the drop dead date that we have to sign this? Mr. Smart indicated that they need it by the 15th. Patsy Stoddard asked if there will be any impacts to the golf course? Is there a plan to mitigate that? Mr. Smart indicated that they have discussed this extensively. The golf course will be a 12 hole course for a year and a half. Mike Olsen indicated that he has been working with other attorneys to get some perspective. He has visited with attorneys who have dealt with issue and they have been advising with him. He will continue to keep looking into it. By the 15th he hopes to have a better perspective on this. His concern is how to indemnify the county. Commissioner Migliori expressed his feelings that this is a big project. Some of the decisions will need to be made moving forward in good faith. Amendments and MOU's will be coming. He wanted the county attorney to review the paragraph and be comfortable with it. Then we can move forward in good faith. Commissioner Keith Brady made a motion to move forward pending the approval of Attorney Mike Olsen's validation of CRF200 on behalf of NRCS and Canal Company so they are not strapped for time.

(11)

CONSIDERATION AND APPROVAL OF MEMORANDUM OF UNDERSTANDING
BETWEEN NATURAL RESOURCES CONSERVATION SERVICE (NRCS), UNITED
STATES DEPARTMENT OF AGRICULTURE (USDA), AND EMERY COUNTY, UTAH
FOR FERRON WATERSHED- MILLSITE DAM (DAM NO UT00212).

9

COMMISSION MEETING MINUTES
JULY 7, 2015

(12)

CONSIDERATION AND APPROVAL OF MEMORANDUM OF UNDERSTANDING
BETWEEN EMERY COUNTY AND FERRON CANAL AND RESERVOIR COMPANY FOR
CASH AND IN-KIND CONTRIBUTION TO REHABILITATION OF MILLSITE DAM
PROJECT.

(13)

CONSIDERATION AND APPROVAL OF DONATION TO PUBLIC LAND RALLY IN
SEVIER COUNTY.

(14)

COMMISSION/ELECTED OFFICIALS REPORT.

(15)

ADJOURNMENT.

ATTEST:_____ COMMISSIONER:_____